

REMARKS

The Office has required restriction in the following application as follows:

The patentably distinct groups comprising different SEQ ID NOs. 1-20 and 34.

Applicants elect with traverse the combination of SEQ ID NO: 1 as the first primer, SEQ ID NO: 15 as the second primer, SEQ ID NO: 27 as the third primer and SEQ ID NO: 34 as the probe.

Applicants make no statement regarding the patentable distinctness of the species, but note for restriction to be proper, there must be a patentable difference between species as claimed. M.P.E.P. §808.01(a). Applicants respectfully traverse the election of species requirement on the grounds that the Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper and Applicants' Election of Species for examination purposes only.

Moreover the M.P.E.P. § 803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct and independent inventions.

Applicants respectfully that a search of all of the claims would not impose a serious burden on the Office.

Finally with respect to the elected species, Applicants respectfully submit, that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the election of species requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,

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(OSMMN 03/06)